an accused, in reference to a waiver of the right of confrontation, has the same effect as if made by the defendant himself. *Rosenbaum* v. *State,* 33 Ala. 354. And as Cooley, J., pointed out in *People* v. *Murray,* 52 Mich. 288, 17 N. W. 843, it makes no difference whether the stipulation is made by counsel employed by the accused or by counsel appointed by the court for the accused. Texas alone seems to hold that the waiver, to be binding, must be made by the accused himself. *Allen* v. *State,* 16 Tex. App. 237. The latter tribunal seemingly forgets that the attorney is the accused's personal representative at the trial and acts for him; it also overlooks the fact that even though the accused may have had no voice in the selection of the appointed counsel, he could have objected in due time to the stipulation and waiver. In the instant case he offered no objection until after the verdict was rendered against him. Logically, the accused here can hardly complain, considering the further fact that his counsel had cross-examined the witness whose testimony was read at the trial. "The main and essential purpose of confrontation is to secure the opportunity of cross-examination." 2 WIGMORE, Ev., Sec. 1395. This is the primary right the constitutional provision mainly guarantees, and once this opportunity and right are had and enjoyed by the accused he cannot claim that he was denied due process of law.

DEEDS—DELIVERY—GRANTOR RETAINING POSSESSION.—The defendants claimed land under an instrument, signed, sealed and acknowledged by the grantor. The latter, during his life, retained possession of the land and of the instrument; he gave the latter to no one at any time, and he made no declarations regarding it, its existence being unknown until after his death, when it was found among his papers. In an action by the heirs of the grantor for partition, it was held that there had been no valid delivery of the instrument. *Mumpower* v. *Castle* (Sup. Ct. App., Va., 1920), 104 S. E. 706.

The defendants claimed under an instrument, signed, sealed and acknowledged by the grantor (testator), who in his will spoke of land which he had "deeded" to the defendant, and said that the deed would be found with the will. Apparently, the deed was signed and acknowledged some time after the will was made, for it bore a later date than the will. After the testator's death it was found, signed and acknowledged, along with the will. In a suit by two grandchildren of the testator for partition, it was *held* that there had been a valid delivery of the deed. *Payne* v. *Payne* (Sup. Ct. App., Va., 1920), 104 S. E. 712.

Delivery of a deed, as the court points out, is essentially a matter of intention on the part of the grantor to consummate the transaction as far as he is concerned; i. e., to have the instrument operate presently as a conveyance. The cases above, recognizing that manual transfer of possession is unnecessary, nevertheless hold that even where an instrument is signed, sealed, and acknowledged there must be some other circumstance or word or act of the grantor showing an intention on his part to have the instrument operate presently as a conveyance in order to constitute a valid delivery. The weight of authority supports this doctrine that delivery is an affirmative

act, as essential to the validity of the deed as the signing or sealing, and being a distinct requisite for validity, must be proved by the one claiming under the instrument. *Fain* v. *Smith,* 14 Ore. 82, 58 Am. Rep. 281; *Fisher* v. *Hall,* 41 N. Y. 416; *Boyd* v. *Slayback,* 63 Cal. 493. In the second case, the language used by the testator in his will regarding the deed, and his subsequent action in acknowledging the deed and placing it with his will were considered as clearly indicating his intention to make it then operative as his deed. For a very similar case see *Toms* v. *Owen,* 52 Fed. 417. See also 17 MICH. L. REV. 344 and references given there. There are misleading statements in certain cases cited in *Payne* v. *Payne, supra,* to the effect that the signing, sealing and acknowledging of a voluntary conveyance raise a prima facie presumption of its delivery. The language, however, was unnecessary to the decision of the cases cited and is impossible to reconcile with elementary principles of the law as to delivery.

EQUITY—UNCLEAN HANDS.—Plaintiff was a corporation giving chiropractic lessons by mail, and had built up its business by false, misleading, and fraudulent advertising. Defendant, a former president of the plaintiff company, started a rival institution and took with him a list of plaintiff's present and prospective pupils, and sent letters to them derogatory to plaintiff, and calculated to draw its pupils away. The defendant built up his business by the same kind of fraudulent advertising. Plaintiff asked for an injunction to restrain defendant from sending out any more such letters. *Held,* the plaintiff's unclean hands preclude equity from giving the relief asked. *American University* v. *Wood,* 128 N. E. 330 (Ill., 1920).

The court in the principal case lays down the broad proposition that equity will not aid a litigant in the promotion of a fraud on the public, although his wrong did not affect the private rights of the defendant, and had no necessary connection with defendant's wrong-doing, citing *Primeau* v. *Granfield,* 193 Fed. 911, in which, there being a suit to declare a trust and for an accounting between plaintiff and defendant, who were engaged in a fraudulent joint enterprise for the sale of worthless mining stock to the public, the court dismissed the bill, holding the plaintiff had not come into court with clean hands. The Trade Mark or Trade Name cases, 4 A. L. R. 32, note, in which plaintiff asks for an injunction to restrain an infringement, are the most numerous and important type in which the courts have applied the doctrine of unclean hands, as in *Worden* v. *California Fig Syrup Co.,* 187 U. S. 516, where an injunction restraining an infringement on the trade name, "Syrup of Figs," was refused, the court holding that the name was a fraud on the public, as the product contained no fig syrup, but was merely an extract of senna, and dismissed the bill because of the plaintiff's unclean hands. In *Memphis Keeley Institute* v. *Leslie E. Keeley Co.,* 155 Fed. 964, plaintiff asked an injunction to restrain defendants from administering their remedies, and to cancel the contract. The court found that the so-called "Gold Cure" contained no gold, although the sale of the medicine had been built up by representations to that effect, and held that as this